



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 28, 1996

Mr. Richard M. Abernathy
Abernathy, Roeder, Robertson & Joplin
P.O. Box 1210
McKinney, Texas 75069-1210

OR96-1047

Dear Mr. Abernathy:

As counsel for the Collin County Community College ("CCCC"), you ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 40736.

CCCC received a request for various information concerning Dr. Deborah L. Floyd. Although you suggest that the release of portions of the requested information may implicate Ms. Floyd's privacy rights, you raise no specific exception to the required public disclosure of the requested information and state that you have discussed this request with Dr. Floyd's attorney, Mr. Christopher M. Weil, whom you say will submit in writing reasons CCCC must not release the requested information. See Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Open Records Act in certain circumstances).

We have examined the information you submitted to this office to determine whether it contains information that is deemed confidential by law. See Gov't Code § 552.101 (excepting from required public disclosure information considered to be confidential by law). We do not believe the release of the requested information implicates Ms. Floyd's privacy rights. *Industrial Found. v. Texas Indus. Accident Bd.*,

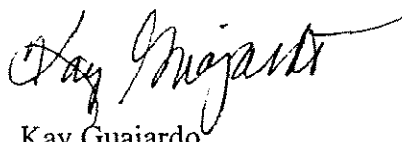
540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977).¹ Some of the information may be protected from public disclosure under section 552.117 of the Government Code, which applies to a former or current employee's home address, home telephone number, social security number and information that reveals whether the employee has family members. Section 552.117 only applies to the information it covers if at the time the governmental body receives the request for information the employee has chosen to have that information remain confidential in accordance with section 552.024 of the Government Code. We have marked examples of information that section 552.117 may cover.

Finally, we observe that one entry on Ms. Floyd's calender identifies an individual as a student. The Federal Educational and Rights to Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g, generally requires consent of the student or the student's parents before an educational agency or institution discloses personally identifiable information in education records. You must withhold that name from public disclosure pursuant to section 552.101 of the Government Code as information deemed confidential by law. *See* Open Records Decision No. 634 (1995).

Lacking a reason to conclude that the remaining information is excepted from public disclosure by any exception to required public disclosure in the Open Records Act, we must conclude that CCCC may not withhold from the requestor the information not covered by section 552.117 or FERPA.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

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¹Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977).

Ref.: ID# 40736

Enclosures: Marked documents

cc: Ms. Bridget Mount
Lexington Herald-Leader
100 Midland Avenue
Lexington, Kentucky 40508
(w/o enclosures)